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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,381	03/04/2002	John Cook	30222/83:9 US	8204
23446	7590	12/21/2005	EXAMINER	
MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			NAKARANI, DHIRAJLAL S	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/092,381

Applicant(s)

COOK ET AL.

Examiner

D. S. Nakarani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-13,24-36 and 38-60 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,3-13,24-30 and 38-60 is/are rejected.
7) ☒ Claim(s) 31-36 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1 and 3-13 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as originally filed does not provide support for the limitation "copolymer of propylene and ethylene having an ethylene content of greater than 0% by weight and less than about 10% by weight". The specification as filed provides support for propylene-ethylene copolymer having ethylene content from about 1 wt% to about 10 wt%. The specification as originally filed does not support exclusion of "about 10 wt%" ethylene from propylene-ethylene copolymer. The limitation "less than about 10 wt% ethylene content" exclude "about 10 wt%" ethylene content which is not supported by the originally filed specification. Also there is no numerical support for the ethylene content greater than 0 wt% to about 1 wt%. The specification provides numerical support for about 1wt% as a lower limit.

3. Claims 56 and 57 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 56, line 3, the phrase "C₃-C₁₀ α-olefins" renders claim indefinite. How propylene monomer differs from C₃ as α-olefin? Clarification and/or correction requested.

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Claim 57, lines 1-2, the phrase "said monomer comprising from about 0 to about 10% by weight" renders claim indefinite. The claim 57 depends from claim 56 which requires a copolymer of propylene and a recited monomer therefore when an amount of monomer is 0% by weight the propylene polymer will not be a copolymer as required.

4. Claims 1, 3-11, 13, 24-30 and 38-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dohrer (U. S. Patent 5,208,096) in view of Koch et al (U. S. Patent 5,399,426).

Dohrer discloses single sided cling stretch film comprising cling layer A, core layer B and cling free (i.e. non-cling) layer C. The cling layer A comprises a mixture of linear low density polyethylene (LLDPE) having density of 0.912 and tackifier polybutene (Example 4). The core layer B comprises LLDPE having density of 0.917 (Example 4). The layer C comprises a propylene homopolymer (Example 4) or copolymer (Examples 13 and 15). Dohrer discloses that the film have overall thickness from about 0.3 mil to 3.0 mil and the weight ratio of layer A to layer B to layer C from about 5:90:5 to about 30:40:30 (Col. 4, lines 49-61). Dohrer discloses polypropylene homopolymer such as PP 4062 of Exxon Chemical Co. and propylene/ethylene copolymer such is PP7C49 of Shell Chemical Co. for cling free layer C (Table under cols. 5 and 6 continued under cols. 7 and 8). Thus Dohrer discloses equivalent use of propylene homopolymer and copolymers. Dohrer also suggest amount of alpha olefin from 0.5 to 20-wt%, most preferably less than 5 wt% (col. 2 lines 48-65). The present disclosure defines ultra low density polyethylene having density from 0.888 g/cm³ to 0.920 g/cm³ (See paragraph 0022). Thus Dohrer's LLDPE of cling layer A falls within the defined range. Dohrer fails to disclose the core layer B made of a mixture of LLDPE and low density polyethylene.

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Koch et al disclose a stretch wrap film having a core layer B made of a blend of linear low-density polyethylene and low-density polyethylene or ethylene vinyl acetate copolymer. Koch et al disclose mixing ratio of linear low-density polyethylene to low-density polyethylene or to ethylene vinyl acetate copolymer from about 5:1 to 33:1 (column 4, lines 3-8). Koch et al disclose that addition of low-density polyethylene in the core layer increase ultimate elongations. Koch et al's three-layer film has thickness of 20 microns (i.e. 79 gauge based on 100 gauge = 1 mil and 1 mil = 25.4 microns). Koch et al also disclose thickness of the three layer film is from about 0.3 to about 10 mils (30 gauge to 1000 gauge), especially from about 0.15 mils to about 1.2 mils (i.e. 15 gauge to 120 gauge) (column 5, lines 8-13). Thus Koch et al's film thicknesses also include claimed film thicknesses. Koch et al's cling layers (A) are made of LLDPE having density of 0.916 (Example 3). Koch et al disclose that LLDPE and the branched LDPE are made by Ziegler-Natta or Phillips type catalyst. Therefore these polymers are deemed to be heterogeneously branched polyethylenes.

Therefore it would have been obvious to a person of ordinary skill in the art at the time of this invention made to utilize disclosure of Koch et al in the invention of Dohrer to use Koch et al's known polyethylenes and add low density polyethylene or ethylene vinyl acetate copolymer to LLDPE to form core layer to increase ultimate elongation of the film. Koch et al suggests about 3 wt% low density polyethylene (Example 5).

5. Claims 31-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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6. Claim 12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, first paragraph, set forth in this Office action.

7. Applicant's arguments filed August 31, 2005 have been fully considered but they are not persuasive. In reference to rejection of claims 1 and 3-13 under 35 USC §112, first paragraph applicants mainly argue that in the specification as originally filed, paragraph 32 provides the support for the limitation "greater than 0% by weight and less than about 10% by weight. The pertinent part of the paragraph 32 provided as follows:

"The polypropylene of the present invention is preferably a polypropylene copolymer and ethylene in an amount ranging from about 0 to about 10% by weight of the polypropylene, and more preferably in an amount ranging from about 1 to about 3% by weight of the polypropylene."

Further applicants state that the specification as filed provide support for the entire range of ethylene from 0% by weight to 10% by weight. As such, support is provided for each and every value within that range, and for any range of values within that range.

These arguments are unpersuasive because applicants have not pointed-out where the support for exclusion of 0% by weight and/or 10% by weight of ethylene can be found in the original specification. In order to change numerical value of lower limit and/or upper limit, the specification must have support for the changed numerical value of lower limit and/or upper limit.

In reference to rejection of claim 56 under 35 USC § 112, second paragraph, applicants state that the phrase "C₃-C₁₀ α-olefins" has been changed to – C₄-C₁₀ α-olefins --. However in the claim 56 that change has not been made.

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Applicant's arguments with respect to claims 1, 3-13, 24-36 and 38-60 have been considered but are moot in view of the new ground(s) of rejection.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D. S. Nakarani
Primary Examiner
Art Unit 1773

Dsn
November 28, 2005.